IN THE DRAWINGS:

Please add new FIGS. 3 and 4 which are attached hereto, on a separate "New Sheet" of drawings.

REMARKS

At the outset, the Applicant wishes to thank Patent Examiner Catherine Simone for the many courtesies extended to the undersigned attorney during the Personal Interview on January 7, 2009, at the U.S.P.T.O. The substance of this Personal Interview is set forth in the Examiner Interview Summary, and in this Amendment.

During the Personal Interview, there was a discussion of the Final Office Action and it was pointed out that the Patent Examiner on Page 3 of the Office Action, as well as on Page 4 of the Office Action, contended that independent claim 32 does not recite anything about the thermal expansion of the layers in addition to an asymmetrical construction.

Therefore, enclosed herewith in this Amendment in Response to Final Office Action is claim 32 being amended to specifically recite "coefficient of thermal expansion" rather than "a coefficient of elongation." Also, claim 32 is amended to recite "wherein the phenomenon known as curling which occurs with a symmetrical structure no longer occurs with said film bitumen combination." Support for all of the terminology added to claim 32 is found in the second paragraph on page 10 of the present Specification. During the Personal Interview it was argued that the claimed invention would logically have to be an asymmetrical

structure, since the phenomenon known as curling, which occurs with a symmetrical structure, no longer occurs with the claimed structure. Thus, the claimed structure could not be a symmetrical structure and therefore would be an asymmetrical structure as has been argued.

Also, the Patent Examiner stated during the Personal Interview that there was some confusion in the original disclosure regarding the barrier layer as well as the film layer since both were identified by the same reference numeral "4." The Patent Examiner suggested that an Amendment to the Specification and to the Drawings be provided to clarify this use of the same reference numeral to refer to two different layers. For this reason, enclosed herewith is an Amendment to the Drawings in which a new FIG. 3 and a new FIG. 4 are being added, as well as amending the Specification on Page 10 to indicate that reference numeral "4" refers to the barrier layer, whereas new reference numeral "14" refers to the second film layer.

Hence, no new matter has been introduced by this Amendment.

In order to overcome the obviousness-type double patenting rejection over claims within copending Application Serial No. 10/680,013, a Terminal Disclaimer and Terminal Disclaimer Fee are now being filed.

Also on Page 2 of the Office Action, the Patent Examiner under 35 U.S.C. 103 rejects claims 2, 7,9, 11, 14, 16, 18, 20, 21, 24, 28-30, and 32 over *Wiercinski et al.* in view of *Hurst*.

Also on Page 2 of the Office Action, the Patent Examiner under 35 U.S.C. 103 rejects claims 17 and 19 over *Wiercinski et al.* in view of *Hurst* and further in view of *Zickell et al.*

Additionally on Page 2 of the Office Action, the Patent Examiner under 35 U.S.C. 103 rejects claim 31 over *Wiercinski et al.* in view of *Hurst* and further in view of *Kalkanoglu*.

During the Personal Interview, there was a discussion of this Final Office Action including the primary reference, *Wiercinski U.S. Patent No. 5,687,517*, which was cited against all the claims in various prior art rejections by the Patent Examiner.

It was respectfully pointed out that a substantial difference between *Wiercinski* and the present invention is the asymmetric construction of the present invention.

The combination structure according to *Wiercinski* is built up by two multilayer films 22 and 22A (Fig. 2) as discussed in

the Office Action; these two films 22 and 22A are built up by three layers of different material; the multilayer films 22 and 22A are of the same construction; therefore, the *Wiercinski* complete film built by films 22 and 22A is always symmetrical.

The structure according to the present invention is itself built up by an asymmetric construction that is a substantial and important difference over the prior art. Therefore, *Wiercinski* does not disclose the claimed structure set forth in the claims and does not lead to the present invention even if combined with other references *Hurst, Zickell* and *Kaklanoglu*.

It was pointed out during the Personal Interview that there is a discussion within *Wiercinski*, in column 6, lines 49 and 50 that the non-skid material in this prior art reference should have a lower Young's modulus of elasticity than the outermost film layer material of the carrier sheet 14.

Also *Wiercinski*, in claim 1 and in claim 13, specifically recites a coating having a lower Young's modulus of elasticity than the outermost film layer. While this prior art reference refers to the *Young's* modulus of elasticity, the present invention recites the thermal expansion coefficient in the claims, and that this is a significant difference. Hence, *Wiercinski* does not teach, suggest or disclose anything about the

thermal expansion of the various layers in the prior art structure; and that this is a substantial difference.

Regarding the pending claims, it is to be pointed out that in claim 32 that a first film layer being located further away from the bituminous layer has a larger coefficient of thermal expansion than a second film layer.

Therefore, the claimed invention is directed to an asymmetric construction; and this feature must always be structurally present. Therefore, all layers further away from the bituminous layer must have a greater thermal expansion than a layer located nearer to the bituminous layer.

Enclosed is a Declaration Under Rule 132 by the inventor, Mr. Michael Fürst, which contains Comparative Testing.

Based upon this Declaration and in conclusion, the prior art symmetrical construction lead to material failure, while the claimed "asymmetrical" construction did not fail. This unexpected improvement in results for the claimed invention relative to the prior art structure (i.e.-"asymmetrical" versus "symmetrical" of *Wiercinski*) is very strong indicia of the nonobviousness of the claimed invention.

The deficiencies in the teachings of the primary reference *Wiercinski* are not overcome by the disclosures of the secondary references. None of the other cited prior art references namely: *Hurst, Zickell* and *Kalkanoglu*, teach or suggest the claimed invention.

For all the reasons set forth above, no prior art reference (*Wiercinski et al, Hurst, Zickell,* or *Kalkanoglu)* provides an identical disclosure of the claimed invention. Hence, the present invention is not anticipated under 35 U.S.C. 102. For all these reasons, the present invention and all the claims are patentable under 35 U.S.C. 103 over all the prior art applied by the Patent Examiner. Withdrawal of these grounds of rejection is respectfully requested. A prompt notification of allowability is

respectfully requested.

Respectfully submitted,

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Enclosure: 1. Petition for One Month Extension of Time-Large Entity
2. Fürst Declaration Under Rule 132
3. Terminal Disclaimer
4. New Sheet of Drawings for FIGS. 3 and 4

EXPRESS MAIL NO. EM 284 771 409 US
Date of Deposit: May 5, 2009

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10, on the date indicated above, and is addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Amy Klein